

09/995,303

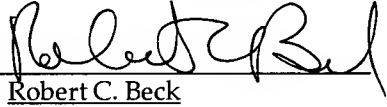
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellants:	Robert C. Beck	Examiner:	Matthew F. DeSanto
Serial No.:	09/995,303	Group Art Unit:	3763
Filing Date:	November 27, 2001	Docket No.:	2446
Title	Interventional Device		

Date of Deposit: July 20/05

I hereby certify that this paper is being deposited in the United States Postal Service, as first class mail, in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450

Signature: Printed Name: Robert C. BeckBRIEF ON APPEAL

Mail Stop AF
Commissioner for Patents
Alexandria, VA 22313

Sir:

A one-month extension of time is requested to file a Brief on Appeal pursuant to the Notice of Appeal filed on April 20, 2005. A Petition for the Extension of Time and the fee are enclosed herewith.

This is an appeal from the office Action mailed from the U.S. Patent and Trademark Office on October 24, 2004. A Notice of Appeal was filed on April 20, 2005. The fee for filing an appeal brief should be charged to Deposit Account No. 500246. The balance of this appeal is set forth under appropriate headings, as specified by 37. C.F.R. §1.192(c).

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I. REAL PARTY IN INTEREST

The real part in interest is Sprite Solutions, 2256 Hendon Avenue, St. Paul, MN 55108, Assignee of the entire right, title and interest in the subject application, by virtue of an Assignment recorded on January 18, 2005 at Reel 016153, Frame 0099.

II. RELATED APPEALS AND INTERFERENCES

Appellant, the undersigned Attorney and Assignee are not aware of any related appeals or interferences that will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIM

Claims 7-9 and 18-24 and 27-30 have been finally rejected, and a copy appears in the Appendix of this Brief. These claims were amended in the Amendment filed on February 22, 2005. Claims 1-6, 10-17 and 25-26 were canceled.

IV. STATUS OF AMENDMENTS

No Amendment After Final has been filed.

V. SUMMARY OF INVENTION

The invention is a method of using a catheter to interact with thrombus and other occlusive material in a blood vessel and extract those materials. There are a number of ancillary structures on the catheter which tailor it for specific applications. One common feature throughout the various embodiments of the invention is the use of structures to give rise to the Coanda effect to turn a jet from an initial flowing direction to a deflected flowing direction. The Coanda effect occurs when a jet emerges and entrains fluid. If the geometry around the jet is such that entrainment is limited on one side of the jet, then a pressure difference builds across the jet and the jet follows the contour of the wall of barrier which gives rise to the effect. It is important to note that this is not the same as having the jet impinge on a wall and be deflected by striking the wall surface.

This particular characteristic is a limitation found in all of the method claims and it is a feature not taught by any of the applied references.

VI. ISSUES

The one legal issue presented for review is whether the claims are anticipated by any of three separate references under 35 U.S.C. §102.

VII. GROUPING OF CLAIMS

With respect to the arguments on appeal all of the claims stand or fall together as a group since they are ultimately dependant on claim 7.

VIII. ARGUMENT

- A. Rejection of claims 7-9, 18-24 and 27-30 under 35 U.S.C. §102(e) over Nash 6,080,170.

Nash fails to show the “gap projecting said fluid jet in an initial direction away from said wall adjacent said gap, said wall serving to restrict entrainment of fluid by said primary fluid flow, thereby creating a pressure difference across said primary fluid jet flow such that said primary fluid flow turns through an angle away from said initial direction away from said wall and turns toward said wall thereby exhibiting the Coanda effect”.

Although Nash is within the same general technology area it fails to exhibit the Coanda affect with respect to any jet ejected from the catheter body and therefore fails to meet the limitation of the claim.

- B. Rejection of claims 7-9, 18-24 and 27-30 under 35 U.S.C. §102(e) by Levin et al. 6,592,567. Levin fails to show the “gap projecting said fluid jet in an initial direction away from said wall adjacent said gap, said wall serving to restrict entrainment of fluid by said primary fluid flow, thereby creating a pressure difference across said primary fluid jet flow such that said primary fluid flow turns through an angle away from said initial direction away from said wall and turns toward said wall thereby exhibiting the Coanda effect”.

Levin is a device for treating the kidneys and it is designed to promote perfusion There is no structure that can generate the Coanda effect with respect to any jet ejected from the catheter body. For this reason the reference fails to teach the limitation of the claim.

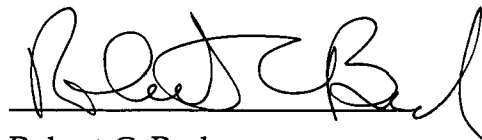
C. Claims 7-9, 18-24 and 27-30 are rejected under 35 U.S.C. §102(b) under Fischell 5,100,425. Nash fails to show the "gap projecting said fluid jet in an initial direction away from said wall adjacent said gap, said wall serving to restrict entrainment of fluid by said primary fluid flow, thereby creating a pressure difference across said primary fluid jet flow such that said primary fluid flow turns through an angle away from said initial direction away from said wall and turns toward said wall thereby exhibiting the Coanda affect".

D. Claims 7-9 are rejected under 35 U.S.C. §102(e) as being anticipated by Zadno-Azizi et al. 6,605,074. Nash fails to show the "gap projecting said fluid jet in an initial direction away from said wall adjacent said gap, said wall serving to restrict entrainment of fluid by said primary fluid flow, thereby creating a pressure difference across said primary fluid jet flow such that said primary fluid flow turns through an angle away from said initial direction away from said wall and turns toward said wall thereby exhibiting the Coanda affect".

The applicants method calls for structural elements that give rise to the Coanda effect in the fluid and the inventive methods exploit these properties.

Respectfully submitted,
SPRITE SOLUTIONS
By its attorneys:

Date: July 20 / 05



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